



## **POSSIBLE INDICATORS OF FRAUD IN FEDERAL CONTRACTS**

Fraud is defined as deceit, trickery (for example: intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right), an act of deceiving or misrepresenting.

Why should we care about fraud in the Federal Government Procurement system?

As taxpayers, we care about where our tax dollars go and whether these tax dollars are being wasted. As Federal Government employees, we care about the integrity, reputation, and propriety of the Federal Government procurement process. We want the public and the contractors to have confidence in the fairness and integrity of the Federal Government procurement system.

At the bottom of this memo is a list of possible "fraud indicators" which was drafted by the TACOM-ACALA Legal Group Procurement Fraud Advisor. These fraud indicators by themselves do not establish the existence of fraud. Instead, the presence of any of these fraud indicators, when considered in each particular procurement situation, should cause us to be alert to the possibility of impropriety and should cause us to take appropriate actions to ensure the integrity of the procurement process.

If you notice one or more of the fraud indicators, and you believe that there is an impropriety occurring in the procurement process, please contact the local Criminal Investigative Command (CID) Special Agent, Mr. Ellis, at extension 25999, or the Procurement Fraud Advisor for your command:

TACOM-ACALA: Sue Allison-Hiebert, ext. 28445, e-mail: salliso1

IOC: Marina Yokas-Reese, ext. 8458 or Tom McGhee, ext. 8432

Rock Island Arsenal: Mary Fuhr, ext. 8443

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Fraud may occur at any stage of the Federal Government procurement process:

1. During the presolicitation stage, fraud indicators may include:

- a. the Government failing to perform market research to determine evaluation factors, contracting method, and whether commercial items or nondevelopmental items would meet the Government's needs.
- b. the Government failing to state requirements functionally to the maximum extent possible.
- c. the Government defining statements of work and specifications to fit products or capabilities of a single contractor.
- d. the Government splitting requirements to use simplified acquisition procedures in order to avoid review and approval procedures.
- e. the Government's approval of a justification for less than full and open competition based on improper reasons or inaccurate facts.

2. During the solicitation stage, fraud indicators may include:

- a. the Government selecting evaluation factors and subfactors that are not derived from the market place and do not accurately reflect the Government's requirements
- b. the Government selecting evaluation factors and subfactors that unfairly favor one potential offeror.
- c. the Government disclosing to one or more potential offerors specific information about a proposed acquisition that would be necessary for the preparation of proposals, and the Government failing to make this information available to the public as soon as practical.

3. During the preaward stage, fraud indicators may include:

- a. indicators of collusive bidding or bid-rigging by the bidders.
- b. favoritism or bias in the evaluation of proposals by the Government.
- c. the Government revealing to an offeror the identity of other offerors.

- d. the Government revealing to an offeror the content of another offeror's proposal.
- e. the Government revealing to an offeror the ranking of other offerors.
- f. the Government revealing the evaluation of other offerors.
- g. the Government revealing an offeror's solution, technology, or intellectual property to another offeror.
- h. the Government revealing an offeror's price without that offeror's permission.
- i. the Government knowingly furnishing source selection information to offerors.
- j. the Government evaluating offers based on criteria not stated in the solicitation.
- k. the Government failing to analyze the cost realism and reasonableness of each offeror's proposal when a cost reimbursement contract is anticipated.
- l. the Government eliminating offeror(s) from the competitive range before rating each offer against all solicitation evaluation criteria.
- m. the Government failing to hold communications with offerors whose past performance information is the determining factor preventing them from being placed within the competitive range.
- n. the Government failing to document the competitive range determination and the supporting rationale in the contract file.
- o. the Government failing to notify offerors promptly in writing when their proposals are excluded from the competitive range.
- p. the Government failing to hold discussions with offerors in the competitive range when the solicitation states that discussions will be held prior to award.
- q. a Government source selection decision that is inconsistent with the stated solicitation evaluation factors and subfactors; or a Government source selection decision that fails to adequately explain the rationale for award.

4. During the postaward stage, fraud indicators may include:

- a. the Government failing to notify each offeror, whose proposal was in the competitive range but not selected for award, of the award within 3 days after the date of contract award.
- b. the Government failing to brief an unsuccessful offeror when the unsuccessful offeror has made a written request for debriefing within 3 days after the offeror received notice of the contract award.
- c. the Government modifying the contract shortly after award in order to make material changes in the requirements or scope of work.

- d. the Contractor failing to perform the contractually required testing, or the Contractor failing to perform such testing in the required manner.
- e. the Contractor submitting false invoices or claims to the Government.
- f. the Contractor using progress payments on one contract to fund another contract.
- g. the Contractor manufacturing nonconforming or defective items.
- h. the Contractor repeatedly shipping short to the Government.